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ABSTRACT

In Canada, the Provincial Ministries of Education had mandated that everyone financially support education through property taxes. The rate of support is tied to property ownership, whether or not a family has a child enrolled in the education system, or is being educated through home-schooling, private schooling, or by other allowable means. On May 16, 2001, the mandate was modified so that parents who send their children to private independent schools would receive a tax credit. This paper analyzes potential consequences of this tax modification. The tax credit was opted for by parents and is not a credit provided within the portfolio of the Ministry of Education. It is designed to offset instructional costs only, which are the prime focus for educational grants to schools. The benefit obtained is dependent on parental choice to opt out of the public school system, the number of eligible students the parents have, the opting into an identified eligible school, and the eligible student engaged in an eligible course of study. A formula calculates the eligible tuition per child using taxable income as a significant parameter. The possibility of the formula creating inequity is discussed. At this time, consequences of the tax credit remain unknown. (RT)

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The Right to Opt Out of Support for Public Education

by

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The Right to Opt Out of Support for Public Education

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In Canada we have legislatively supported the notion that society benefits from the education of our youths. Consequently, the Provincial Ministries of Education have mandated that everyone financially supports education through their property taxes. The rate of support is tied to property ownership not whether you had a child in the education system or whether your child was being educated through home schooling, private schooling, or other allowable means. This legislative financial support therefore has not denied parental choice in education. Choice can be found within the public education system and outside the system.

Nevertheless, on May 16, 2001 the Ministry of Education signaled a major shift in this philosophical stance that had guide education within the Province. In their new release, the Ministry states --

> "...Mr. Speaker, and as part of the 21 steps into the 21st century outlined in last month's Throne Speech, we are taking several additional measures to support increased accountability and choice in education, some of which require passage by the Legislature. These measures include: ... the proposal for legislation to allow parents to enroll their children in any available school within their system. ...
>
> But just as we are supporting and encouraging parental involvement and choice within the public system, we also respect the choice made by those parents who choose to educate their children in an independent school.

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Last week's Budget announced another important step in supporting parental choice -- the Equity in Education Tax Credit -- which will begin in the 2002 taxation year. Subject to approval by the Legislature, it will give parents a tax credit of up to $3,500, phased in over five years, for fees they have paid to send their children to independent schools in Ontario. We will work to identify the appropriate framework for establishing eligibility for this credit."

The announcement to move away from the Canadian traditional stance that public education means all citizens support the public education system through property tax dollars with no personal tax consideration if the public education was not used was received with mixed reaction.

Parents who send their children to private independent schools cheered. The announcement meant they will now receive a tax credit. They have always claimed they should not have to pay for a system that they were not using. Interestingly this is an argument they disallow for others (such as childless families, seniors). They have always claimed a double tax since they must pay private independent school tuition in addition to public school tax. Parents who are disenfranchised with the public education system but could not afford private schooling for their children now see an opportunity to finally get the education system they want, namely, a private school for their children.

Teachers' Associations have come out against the legislation but not surprisingly they are seen as self-serving. The reaction was expected given the resistance of the Associations to admit shortcomings in the public education system. This resistance has only led to serious mandated changes by the Government, including teacher testing and provincial student testing.

The change was effective January 1, 2002. If you do not have children in the public

education system,[1] you must still support the system with your property tax dollars. However, if you have children in the system and choose to have them educated outside of the public education system and in an independent school then you are only required to partially support the public education system. This new "Equity in Education Tax Credit" appears to be anything but a matter of "equity" and everything to do with the matter of "inequity." The appearance demands further examination.

To better position ourselves to offer a more objective judgment on the education tax credit implemented its mechanisms must be addressed. First, although the tax credit relates to the provision of education opted for by parents, the tax credit is not a credit provided within the portfolio of the Ministry of Education. Consequently, it is not a cost element at the school level. Instead, the tax credit is provided through the Income Tax Act and is thus a reduction in cost at the parental level. The tax credit can in many instances be considered in parallel to the tax credit the Government made available to small businesses. Therefore, it is arguable that this change in the Income Tax Act does not necessarily negatively impact on the public funds that will or will not be allocated to the support of the public school system. It will mean that the Government will have a reduced amount of Provincial General Revenue to work with. Should this decrease in revenue mean an immediate decrease in the amount of funds the Ministry of Education will have is a wait and see. If this equation proves to be the operative then the concerns raised Summer 2001 will prove to have substance. At this point, all Ministries are working within their current budget and the tax credit change impact will not be known until the next budget cycle, Spring 2002.

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[1]Public education includes public and separation schools as administered under the Ontario *Education Act*

Second, in a Backgrounder Press Release (December 17, 2001) the Ontario Ministry of Finance outlined important operating aspects of the Equity in Education Tax Credit, namely,

> "... The Equity in Education Tax Credit will be fully refundable and is available for the first $700 of eligible tuition fees paid per month of full-time study, to a maximum of ten months, or $7,000 per taxation year. Parents will be able to claim the tax credit for fees paid in respect of instruction beginning in January 2002. They will be able to claim the tax credit on their 2002 tax return.
>
> The credit would be calculated by multiplying eligible tuition fees by a rate that would start at 10 per cent in 2002 and increase by 10 per cent annually over the next five years, rising to 20 per cent in 2003 and reaching the maximum of 50 per cent in 2006. The maximum value to parents would be $700 in 2002, rising to $3,500 in 2006 . . . "

The eligible tuition fees --

- "are those paid to an eligible independent school;
- are limited to $3,500 for children of kindergarten age, in line with public school funding;
- are reduced to reflect any offsets by scholarship or bursaries;
- exclude fees paid for items such as meals, computers, books, clothing, travel, sports and equipment, if those amounts are not normally included in tuition;
- exclude accommodation costs;
- are reduced to reflect any charitable donations and medical expense tax credits that may be claimed; and
- exclude any amounts paid in respect of child care."

Thus, it would appear that the tax credit has been designed to offset instructional costs only. Instructional costs are the prime focus for educational grants to schools.

Third, the benefit realized is dependent on parental choice to opt out of the public school system, the number of eligible students the parent has, the opting into an identified eligible school, and the eligible student engaged in an eligible course of study (*"must provide at least 750 minutes a week for junior kindergarten and kindergarten students and 1,500 minutes a week for other elementary and secondary students,"* the same standards for instruction time as the public school system) taken at an eligible non-public school (a condition being that the school *"must have five*

eligible students" and *"must offer instruction primarily in Ontario, with each child receiving at least 75 per cent of his or her instruction in Ontario"*). Given that all factors must be present before the benefit is realized maintains some control on mass exists from the public school system for the sole purpose of a tax benefit. It does none the less open the possibility of where a parent might choose to have their child(ren) educated.

Fourth, a further control in the benefit realized by parents who opt to have their child(ren) educated in an eligible non-public school is that the eligible tuition per child is calculated using the formula,

> "A x B
>
> in which,
>
> "A" is the sum of all amounts, if any, each of which is,
>
> (a) included in determining the amount of the tuition fees,
>
> (b) paid to an eligible independent school in respect of the eligible child, and
>
> (c) described in paragraph 118.2 (2) (e) of the Federal Act as a medical expense that is deductible by an individual in the taxation year under subsection 118.2 (1) of the Federal Act and under paragraph 17 of subsection 4 (3.1) of the Act, and
>
> "B" is the percentage equal to the sum of the lowest rate of tax payable by an individual under subsection 118 (2) of the Federal Act for the taxation year and the lowest tax rate as defined in subsection 4 (1) of the Act for the year." (*O. Reg. 498/01 Filed on December 12, 2001*)

Part "B" ensures that there is no unreasonable benefit realized. All eligible parents are benefactors of the tax credit but in relation to taxable income. Implication of this direct link between wealth and benefit is that there is an inequitable feature to the tax credit. This apparent inequitable feature is in addition to concerns that it is inequitable with respect to only being a benefit that parents or legal guardian of eligible students have access to.

So, is the newly established Equity in Education Tax Credit creating inequities? In terms of educational opportunities one would have to conclude that educational opportunities have been

expanded. Access to these opportunities has been expanded because there is now a limited financial rebate to those who act on this opportunity. Has this expansion taken away from the educational opportunities within the publicly supported educational system? At this point in time, the question has no definitive answer. The Government, through its Ministry of Finance and its Ministry of Education, has claimed there will be no negative consequences for the system as a direct result of the introduction of the tax credit. The tax credit is not directed at the school level but at the individual taxpayer level. The mechanics of the tax credit formula ensure that the credit focuses solely on instructional costs and limits credit to equivalent public school allocations. The safe guards appear to have been put in place but reality of future economics may unintentionally compromise government guarantees. Indirectly, the Government has waved the green flag to opting out of financially supporting public education. A fundamental value that guided education within the Province of Ontario has been altered. The price of this alteration remains at this time an unknown.

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